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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,180	10/06/2005	Andre Barkowski	10191/3571	7041
26646 7590 03/30/2009 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004				
EXAMINER				
JEN, MINQJEN				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/528,180

**Applicant(s)**

BARKOWSKI ET AL.

**Examiner**

IAN JEN

**Art Unit**

3664

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 11-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date 01/28/2009/03/17/2005
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Amendment***

1. This office action is in communication with remark entered on February 21st, 2009.
2. Claims 11, 18 have been amended.
3. Claims 21 – 24 has been newly added.
4. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 11 – 16, 19 -20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yuda et al, 2002/0049534 in view of Breed et al, 2002/0198632.

As for claim 11, Yuda et al discloses a navigational device for guiding a vehicle within a network of traffic routes, comprising: A processing unit for calculating a travel route to a destination ( Para 22, 60); a display for displaying a guide object, a movement of the guide object along the calculated travel route being displayed in relation to a traffic route, whereby the movement of the guide object represents driving maneuvers to be performed by a driver of the

vehicle to reach the destination ( Para 61 and 79). Yuda et al is silent regarding a determining arrangement to determine a traffic situation in front of the vehicle by sensing other vehicles in an area surrounding the guided vehicle; an adaptively controlling arrangement to adaptively control the movement of the guide object depending on the traffic situation.

Breed et al shows a determining arrangement to determine a traffic situation in front of the vehicle by sensing other vehicles in an area surrounding the guided vehicle ( Para 22, 23,26.30,46,49 ); an adaptively controlling arrangement to adaptively control the movement of the vehicle depending on the traffic situation ( Para 46,49 ).

Further, it is inherent that the movement of the guide object movement is adaptively controlled since the navigational information for guide object movement is depending on continuously changing feedback traffic situation information accordingly, as ALVINN, Real Time adaptive neural network, Vision-Based Neural Network, Intelligence Vehicle Highway Systems, Dynamic System in US 5479173; 5613039;5504482 mentioned in Breed et al.

It would have been obvious for one of ordinary skill in the art to provide the traffic sensing and arrangement means of Breed et al, to Yuda et al, in order to provide external sensing means, as taught by Breed et al, as external source along with traffic jam data that taught by Yuda et al.

As for claim 12 – 15; Yuda et al shows the guide object includes a vehicle image (paragraph 79) and the guide object is displayed at a selected distance in front of a current position of the vehicle on the travel route in relation to the traffic route (paragraph 61); the

display is configured to superimpose the guide object on the traffic route, within a field of view of a driver of the vehicle (paragraph 61 and 79)

As for claim 19, 20, Yuda et al shows the guide object includes a display area for displaying at least one of directional displays and warning displays associated with a driving maneuver to be performed (Fig. 8); an arrangement for acoustically outputting driving instructions associated with the guide object (paragraph 60).

As for claim 21, Yuda et al shows an arrangement for representing on the display an area surrounding the traffic route (Para 22, 60, 61 and 79 ); the guide object includes a vehicle image ( Para 79 ), the guide object is displayed at a selected distance in front of a current position of the vehicle on the travel route in relation to the traffic route ( Para 61 ), the display is configured to superimpose the guide object on the traffic route, within a field of view of a driver of the vehicle ( Para 61, 79 ).

7. Claim 17, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yuda et al, 2002/0049534 in view of Breed et al, 2002/0198632 and Hall, 6,233,125.

As for claim 17, 18, 22 - 24, Yuda et al shows n arrangement for representing on the display an area surrounding the traffic route ( Fig 8 ); an arrangement for acoustically outputting driving instructions associated with the guide object ( Para 60 ); the guide object includes a vehicle image ( Para 79 ); the guide object is displayed at a selected distance in front of a current

position of the vehicle on the travel route in relation to the traffic route ( Para 61,79 ); he display is configured to superimpose the guide object on the traffic mute, within a field of view of a driver of the vehicle, and the guide object includes a display area for displaying at least one of directional displays and warning displays associated with a driving maneuver to be performed ( Fig 9, Para 61 and 79); a processing unit for calculating a travel route to a destination ( Para 22, 60 ); display for displaying a guide object ( Fig 8 ) , a movement of the guide object along the calculated travel route being displayed in relation to a traffic route (Para 22, 23,26.30,46,49, 61,79 ), the movement of the guide object represents driving maneuvers to be performed by a driver of the vehicle to reach the destination ( Para 22, 23,26.30,46,49, 61,79 ); Yuda et al is silent regarding to specifically disclose the arrangement for determining the traffic situation sense other vehicles in an area surrounding the guided vehicle to determine the traffic situation and an arrangement for ascertaining a highest permissible speed, the ascertained highest permissible speed is used for determining the traffic situation; Hall, however, discloses being able to monitor situations around the vehicle in order to determine the traffic situation and to avoid collisions. (Abstract). Although Hall is mostly geared toward determining collision situations, it would have been obvious to one having ordinary skill in the art at the time of the invention to include the monitoring around the vehicle for other vehicles and vehicle speeds in order to determine the traffic around the vehicle and further determine if steps needed to be taken to change the route; Further, it is inherent that the velocity of guided object to be influenced bit the highest permissible speed since highest permissible speed is obtained adaptively from the surrounding environment and adaptively corresponding to the current speed of vehicle corresponding with velocity of the guided object.

***Response to Arguments***

8. Applicant's arguments with respect to claim 1 – 16, 18 - 24 have been considered but are moot in view of the new ground(s) of rejection. Applicant's attention is directed to the new ground of rejection Yuda et al, 2002/0049534 in view of Breed et al, 2002/0198632, as provided for the newly recited argument with respect to newly recited claim limitation.

***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action. Any inquiry concerning this communication or earlier communications from the examiner should be directed to IAN JEN whose telephone number is (571)270-3274. The examiner can normally be reached on Monday - Friday 9:00-6:00 (EST). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Khoi Tran can be reached on 571-272-6919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ian Jen/  
Examiner, Art Unit 3664

/Dalena Tran/

Primary Examiner, Art Unit 3664